

HULL et al

Appl. No. 09/622,978

November 3, 2003

**AMENDMENTS TO THE CLAIMS:**

This listing of claims will replace all prior versions, and listings, of claims in the application:

1. (Cancel).
2. (Previously Presented) An isolated polynucleotide consisting of a Banana Streak Virus promoter having the sequence shown in SEQ ID NO. 2.
3. (Cancel).
- 4 and 5 (Cancelled).
6. (Currently Amended) A nucleic acid construct comprising the promoter sequence of a polynucleotide according to ~~any one of claims 1, 3 and 5~~ claim 2, and a non-Banana Streak Virus transcribable sequence.
7. (Previously Presented) A nucleic acid construct according to claim 6 wherein the promoter sequence is operably linked to the transcribable sequence.
8. (Previously Presented) A nucleic acid vector suitable for transformation of a plant cell and including a nucleic acid construct according to claim 6.

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9. (Original) A nucleic acid vector according to claim 8 wherein the promoter sequence is operably linked to a transcribable sequence.
10. (Previously Presented) A plant cell containing a heterologous nucleic acid construct according to claim 6.
11. (Previously Presented) A plant cell according to claim 10 wherein said plant cell has said heterologous nucleic acid construct within its chromosome.
12. (Previously Presented) A plant cell according to claim 10 which is comprised in a plant, a plant part or a plant propagule, or an extract or derivative of a plant.
13. (Previously Presented) A method of producing a cell according to claim 10, the method including incorporating said nucleic acid construct into the cell by means of transformation.
14. (Previously Presented) A method according to claim 13 which includes recombining said nucleic acid construct with the cell genome nucleic acid such that it is stably incorporated therein.

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15. (Previously Presented) A method according to claim 13 which includes regenerating a plant from one or more transformed cells.

16. (Previously Presented) A plant comprising a plant cell according to claim 10.

17. (Previously Presented) A part or propagule of a plant comprising a plant cell according to claim 10.

18. (Previously Presented) A method of producing a plant, the method including incorporating the nucleic acid construct according to claim 6 into a plant cell and regenerating a plant from said plant cell.

19. (Original) A method according to claim 18 including sexually or asexually propagating or growing off-spring or a descendant of the plant regenerated from said plant cell.

20. (Cancelled).